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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 7, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. PUE-2002-00416

VIRGINIA NATURAL GAS, INC.,

Defendant.

ORDER OF SETTLEMENT

The Accountable Pipeline Safety and Partnership Act of 1996, 49 U.S.C. § 60101 et seq. ("Act"), requires the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The Virginia State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards under § 56-5.1 of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division"),¹ charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving Virginia Natural Gas, Inc. ("VNG" or "Company"), the Defendant, and alleges that:

(1) VNG is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically, a natural gas company within the meaning of § 56-5.1 of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.197(c) – Failing on several occasions to install a device between the upstream regulator and the service regulator to limit the pressure on the inlet of the service regulator;
- b) 49 C.F.R. § 192.199(c) – Failing on several occasions to properly install pressure limiting devices so that they are readily accessible;
- c) 49 C.F.R. § 192.199(e) – Failing on several occasions to properly install vents on pressure limiting devices;
- d) 49 C.F.R. § 192.303 – Failing to follow Section 4.4.4 of the manufacturer's installation procedures for Powercrete J by not leveling all runs and sags;
- e) 49 C.F.R. § 192.307 – Failing to visually inspect a length of pipe at the site of installation;
- f) 49 C.F.R. § 192.455(a) – Failing to ensure that each buried pipeline installed after July 31, 1971, has an external protective coating;
- g) 49 C.F.R. § 192.479(a) – Failing on several occasions to clean and either coat or jacket a portion of a pipeline that is exposed to the atmosphere;
- h) 49 C.F.R. § 192.515 (a) – Failing to ensure that every reasonable precaution is taken to protect its employees and the general public while conducting pressure tests;

¹ Effective July 1, 2002, the Commission created the Division of Utility and Railroad Safety out of the Division of Railroad Regulation and part of the Division of Energy Regulation.

- i) 49 C.F.R. § 192.605 (a) – Failing on several occasions to follow VNG Procedure 3-3.9.2.8 by not installing casing spacers to bring pipe to its original roundness ;
- j) 49 C.F.R. § 192.605 (a) – Failing to follow VNG Gas Operating Standards ("GOS") Part 3, Section 3, Table 12 by exceeding the maximum pipe gap during the installation of a 4-inch electrofusion coupling;
- k) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 9.4.9, by not taking CGI readings in a trench atmosphere wherein ignition sources were present;
- l) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.9.2.1 by not installing properly grounded squeeze off tools;
- m) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.9.2.3 by not installing a second squeeze off unit three feet from the first to confirm no gas flow;
- n) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.8.1.3 by not grounding metallic tools prior to use;
- o) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 3.8.2.1 by not bleeding the static charge off of a plastic purge line left blowing and unattended;
- p) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 10, 5.2, Immediate On-Site Action, Part 5.2.4 of VNG's Emergency Manual by not checking nearby buildings, etc. for the presence of gas;
- q) 49 C.F.R. § 192.605 (a) – Failing to follow VNG GOS Part 3, Section 10.1.1 and 10.1.2 by installing a meter and service regulator in an alley without providing protection against damage;
- r) 49 C.F.R. § 192.707 (d)(2) – Failing on several occasions to have the company name and telephone number on a pipeline marker;
- s) 49 C.F.R. § 192.725(b) – Failing to test a service line from the point of disconnection to the service line valve in the same manner as a new service line; and,
- t) 49 C.F.R. § 192.751(a) – Failing to have a fire extinguisher when a hazardous amount of gas is being vented into open air while working in an excavation and during purging operations.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, VNG represents and undertakes that:

(1) The Company will pay a fine to the Commonwealth of Virginia in the amount of \$92,000, of which \$37,500, will be paid contemporaneously with the entry of this Order. The remaining \$54,500, is due as outlined in paragraph (2), below, and may be suspended in whole, or in part, provided the Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below, the Commission may vacate any outstanding amounts. The initial payment, and any subsequent payments, will be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director of the Division of Utility and Railroad Safety;

(2) The Company will take remedial actions pursuant to the following schedule:

(A) Double Cut Services

- (i) The Company will design a program to repair or replace all double cut services as needed by September 1, 2003. The Company shall provide quarterly reports, beginning January 1, 2003, to the Division relative to the status of the program. The reports shall enumerate the double cut services repaired, the double cut services replaced, and the remaining double cut services to be evaluated for repair or replacement in the program. Upon completion of the program, VNG shall provide the Division with a listing of the addresses of all double cut services in the Company's system. VNG shall also provide an inspection plan, acceptable to the Division, to monitor the remaining double cut services. The inspection plan should include procedures to ensure that the double cut services are in good condition, adequate from the standpoint of capacity and reliability, and properly protected from dirt, liquids, or other conditions that might prevent proper

operation. On or before October 1, 2003, VNG shall tender to the Clerk of the Commission an affidavit certifying that the Company repaired or replaced all double cut services served by VNG and has submitted its inspection plan to the Division.

- (ii) Upon timely receipt of said affidavit, the Commission may suspend up to \$54,500, of the fine amount specified in paragraph (1) above. Should VNG fail to tender said affidavit or take the actions required by paragraph (2)(A)(i) by October 1, 2003, a payment of \$54,500, shall become due. The Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by paragraph (2)(A)(i) herein and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$54,500, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(3) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of VNG's cost of service. Any such fines and costs shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

The Commission being fully advised in the premises and finding sufficient basis herein for the entry of this Order, and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that VNG has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted. The failure of VNG to comply with the undertakings referenced above may result in the initiation of a Rule to Show Cause proceeding against the Company. Such proceeding may include any action necessary to effect immediate completion of the remedial actions discussed herein.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by VNG be, and it hereby is, accepted.

(2) VNG timely comply with the remedial actions outlined herein. The failure of VNG to so comply with said remedial actions may result in the initiation of a Rule to Show Cause proceeding against VNG. Such proceeding may include any action necessary to effect immediate completion of the remedial actions described herein.

(3) Pursuant to § 56-5.1 of the Code of Virginia, VNG be, and it hereby is, fined in the amount of \$92,000.

(4) The sum of \$37,500, tendered contemporaneously with the entry of this Order is accepted.

(5) The remaining \$54,500, is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in paragraph (2) (A) found on pages 4 and 5 of this Order, and files the timely certification of the remedial actions as outlined herein.

(6) The Commission shall retain jurisdiction over this matter for all purposes, and the matter is continued, pending further order of the Commission.